

## § 503.25

the party subject to the notice of its right to request a debarment hearing and the timeframe under which such rights must be exercised under § 503.43. If the party does not request a hearing within 30 calendar days of the date of the Notice of Debarment, the notice is the final agency action and the debarment will take effect at the end of the 30-day period. The timely filing of an administrative appeal stays the debarment pending the outcome of the appeal as provided in § 503.43(e).

(e) *Concurrent debarment jurisdiction.* OFLC and the WHD have concurrent jurisdiction debar under 20 CFR 655.73 or under this part. When considering debarment, OFLC and the WHD will coordinate their activities. A specific violation for which debarment is imposed will be cited in a single debarment proceeding. Copies of final debarment decisions will be forwarded to DHS and DOS promptly.

(f) *Debarment from other labor certification programs.* Upon debarment under this part or 20 CFR 655.73, the debarred party will be disqualified from filing any labor certification applications or labor condition applications with the Department by, or on behalf of, the debarred party for the same period of time set forth in the final debarment decision.

## § 503.25 Failure to cooperate with investigators.

(a) No person will interfere or refuse to cooperate with any employee of the Secretary who is exercising or attempting to exercise the Department's investigative or enforcement authority under 8 U.S.C. 1184(c). Federal statutes prohibiting persons from interfering with a Federal officer in the course of official duties are found at 18 U.S.C. 111 and 18 U.S.C. 114.

(b) Where an employer (or employer's agent or attorney) interferes or does not cooperate with an investigation concerning the employment of an H-2B worker or a worker in corresponding employment, or a U.S. worker who has been improperly rejected for employment or improperly laid off or displaced, WHD may make such information available to OFLC and may recommend that OFLC revoke the existing certification that is the basis for

## 29 CFR Ch. V (7-1-12 Edition)

the employment of the H-2B workers giving rise to the investigation. In addition, WHD may take such action as appropriate where the failure to cooperate meets the standards in § 503.19, including initiating proceedings for the debarment of the employer from future certification for up to 5 years, and/or assessing civil money penalties against any person who has failed to cooperate with a WHD investigation. The taking of any one action will not bar the taking of any additional action.

## § 503.26 Civil money penalties—payment and collection.

Where a civil money penalty is assessed in a final order by the Administrator, WHD, by an ALJ, or by the ARB, the amount of the penalty must be received by the Administrator, WHD within 30 calendar days of the date of the final order. The person assessed the penalty will remit the amount ordered to the Administrator, WHD by certified check or by money order, made payable to the Wage and Hour Division, United States Department of Labor. The remittance will be delivered or mailed to the WHD Regional Office for the area in which the violations occurred.

## Subpart C—Administrative Proceedings

## § 503.40 Applicability of procedures and rules.

The procedures and rules contained in this subpart prescribe the administrative appeal process that will be applied with respect to a determination to assess civil money penalties, to debar, to enforce provisions of the job order or obligations under 8 U.S.C. 1184(c), 20 CFR part 655, Subpart A, or the regulations in this part, or to the collection of monetary relief due as a result of any violation.

### PROCEDURES RELATED TO HEARING

## § 503.41 Administrator, WHD's determination.

(a) Whenever the Administrator, WHD decides to assess a civil money penalty, to debar, or to impose other appropriate administrative remedies, including for the recovery of monetary

## Wage and Hour Division, Labor

## § 503.43

relief, the party against which such action is taken will be notified in writing of such determination.

(b) The Administrator, WHD's determination will be served on the party by personal service or by certified mail at the party's last known address. Where service by certified mail is not accepted by the party, the Administrator may exercise discretion to serve the determination by regular mail.

### § 503.42 Contents of notice of determination.

The notice of determination required by § 503.41 will:

(a) Set forth the determination of the Administrator, WHD, including:

(1) The amount of any monetary relief due; or

(2) Other appropriate administrative remedies; or

(3) The amount of any civil money penalty assessment; or

(4) Whether debarment is sought and the term; and

(5) The reason or reasons for such determination.

(b) Set forth the right to request a hearing on such determination;

(c) Inform the recipient(s) of the notice that in the absence of a timely request for a hearing, received by the Chief ALJ within 30 calendar days of the date of the determination, the determination of the Administrator, WHD will become final and not appealable;

(d) Set forth the time and method for requesting a hearing, and the related procedures for doing so, as set forth in § 503.43, and give the addresses of the Chief ALJ (with whom the request must be filed) and the representative(s) of the Solicitor of Labor (upon whom copies of the request must be served); and

(e) Where appropriate, inform the recipient(s) of the notice that the Administrator, WHD will notify OFLC and DHS of the occurrence of a violation by the employer.

### § 503.43 Request for hearing.

(a) Any party desiring review of a determination issued under § 503.41, including judicial review, must make a request for such an administrative hearing in writing to the Chief ALJ at

the address stated in the notice of determination. In such a proceeding, the Administrator will be the plaintiff, and the party will be the respondent. If such a request for an administrative hearing is timely filed, the Administrator, WHD's determination will be inoperative unless and until the case is dismissed or the ALJ issues an order affirming the decision.

(b) No particular form is prescribed for any request for hearing permitted by this section. However, any such request will:

(1) Be dated;

(2) Be typewritten or legibly written;

(3) Specify the issue or issues stated in the notice of determination giving rise to such request;

(4) State the specific reason or reasons why the party believes such determination is in error;

(5) Be signed by the party making the request or by the agent or attorney of such party; and

(6) Include the address at which such party or agent or attorney desires to receive further communications relating thereto.

(c) The request for such hearing must be received by the Chief ALJ, at the address stated in the Administrator, WHD's notice of determination, no later than 30 calendar days after the date of the determination. A party which fails to meet this 30-day deadline for requesting a hearing may thereafter participate in the proceedings only by consent of the ALJ.

(d) The request may be filed in person, by facsimile transmission, by certified or regular mail, or by courier service within the time set forth in paragraph (c) of this section. For the requesting party's protection, if the request is by mail, it should be by certified mail. If the request is by facsimile transmission, the original of the request, signed by the party or its attorney or agent, must be filed within 25 days.

(e) The determination will take effect on the start date identified in the written notice of determination, unless an administrative appeal is properly filed. The timely filing of an administrative appeal stays the determination pending the outcome of the appeal proceedings.